

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

DOCKET & FILE

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MERCEDES ALVAREZ, et al.,

Plaintiffs,

NOT FOR PUBLICATION

- against -

ORDER

DEAN JAVIER FUENTES, et al.,

07-CV-52**61** (KAM) (VVP)

Defendants.

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MATSUMOTO, United States District Judge:

By Report and Recommendation dated June 29, 2010, Magistrate Judge Viktor V. Pohorelsky recommends that, based upon plaintiffs' counsel's June 22, 2010 letter (Doc. No. 43) stating that plaintiffs seek to withdraw all claims against defendant Dean Javier Fuentes, the pending motion for default judgment against Fuentes (Doc. No. 31) be deemed withdrawn and that this action be dismissed without prejudice as against Fuentes. (Doc. No. 44, Report and Recommendation ("R&R").) The court has not received any written objections to the R&R and finds no clear error on the face of the record. *See Urena v. New York*, 160 F. Supp. 2d 606, 609-10 (S.D.N.Y. 2001) ("To accept the report and recommendation of a magistrate, to which no timely objection has been made, a district court need only satisfy itself that there is no clear error on the face of the record.") (citation and internal quotation marks omitted); see

also 28 U.S.C. § 636(b); Fed. R. Civ. P. 72(b). The R&R is thus adopted as the opinion of the court.

Because Fuentes is the sole remaining defendant, the Clerk of the Court is respectfully directed to dismiss this action without prejudice as against Fuentes and to close this case. Plaintiff's counsel shall mail a copy of this order to Fuentes at his last known address and file a declaration of service within three business days.

SO ORDERED.

Dated: Brooklyn, New York
July 19, 2010

s/KAM

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KIYO A. MATSUMOTO
United States District Judge
Eastern District of New York